IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.14895 of 2008
KABINDRA RAJBHAR
With
Cr. Misc. No. 55370 of 2007
RAMASHRAY YADAV
Versus
THE STATE OF BIHAR

02/ 09-05-2008 Heard the learned counsel for the petitioners, the learned A.P.P. and learned counsel for the informant.

The petitioners are accused in a case under Sections 364A, 302 read with 34 of the Indian Penal Code.

The allegation is that on 26.1.2007 informant's father Radhe Shyam after taking supper went to sleep. Next day in the morning he was not found there. The informant started searching him and found his shoe, towel and monkey cap lying at a distance of 200 yards. It appears that his dead body was recovered on 14.2.2007 in Ahiwas Bahihar.

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It has been submitted that both the petitioners are not named in the F.I.R. Nothing incriminating has been recovered from their possession. It has further been submitted that about 11 months after the alleged occurrence one Duryodhan Sah stated before the Police that petitioner Kabindra Rajbhar was demanding rangdari from the deceased.

Learned counsel further submitted that petitioner Kabindra Rajbhar is in custody since 21.9.2007 whereas other petitioner is in jail since 21.4.2007.

Learned counsel for the informant, on the other hand,

vehemently opposed the bail and submitted that the witnesses examined in para 13 and 14 of the case diary stated before the Police that they had seen the deceased going in the company of Ramashray Yadav and others. He submitted that Ramashray Yadav confessed before the Police and admitted that he along with others committed the murder of Radhe Shyam due to non-payment of the ransom money. He also submitted that on the basis of statement of Ramashray Yadav the jacket of the deceased was recovered. The same was put on Test Identification parade and identified by the informant. Thus, the position is that at present there is material against the petitioner Ramashray Yadav.

In the facts and circumstances of the case, at this stage the prayer for bail of petitioner Ramashray Yadav is refused.

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So far other petitioner, namely, Kabindra Rajbhar is concerned, he has been named by only one witness Duryodhan Sah that too after 11 months of the alleged occurrence.

In the circumstances only the petitioner Kabindra Rajbhar is directed to be released on bail on furnishing bail bond of Rs. 10,000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of Chief Judicial Magistrate, Buxar in connection with Rajpur P.S. Case No. 12 of 2007.

S.Sb/- **(Madhavendra Saran, J.)**